1. D.B. CIVIL SPECIAL APPEAL (W) NO.151/2005.
(Krishi Upaj Mandi Samiti vs. State of Rajasthan & Ors.)

2. D.B. CIVIL SPECIAL APPEAL (W) NO.152/2005.
(Krishi Upaj Mandi Samiti vs. State of Rajasthan & Ors.)

3. D.B. CIVIL SPECIAL APPEAL (W) NO.124/2005.
(State of Rajasthan & Anr. vs. Krishi Upaj Mandi Samiti)

4. D.B. CIVIL SPECIAL APPEAL (W) NO.125/2005.
(State of Rajasthan & Ors. vs. Krishi Upaj Mandi Samiti & Anr.)

Date : 09.05.2005

HON'BLE MR.JUSTICE N.N.MATHUR
HON'BLE MR.JUSTICE MANAK MOHTA

Mr.M.L. Garg, for the appellant
Mr.H.R. Soni, Additional Government Advocate.
Mr.M.S. Singhvi, for the respondents.
Mr.J.L. Purohit, for Caveator.

These four special appeals are directed against the judgment of the learned Single Judge dated 04th February, 2005.

The undisputed facts are that the State of Rajasthan issued a notification dated 07.08.1978 under Section 4(1) of the Rajasthan Land Acquisition Act, 1953 (hereinafter referred to as the "Act of 1953) for the acquisition of 25 bighas of land. The said notification was denotified for 19 bighas of land vide notification dated 06.10.1980 in exercise of powers under Section 48(1) of the Land Acquisition Act, 1894 (hereinafter

referred to as the "Act of 1894"). However, the said notification was recalled by another notification dated 22.07.1982. The land acquisition officer issued a notice dated 16.11.1990 to the respondent for determination of compensation. The said notice was challenged by way of writ petition. The learned Single Judge held that while the State Government exercising the power under Section 48(1) of the Act of 1894 denotified the acquisition, it was not open to recall the said notification. The only remedy with the State Government was to initiate proceedings for acquisition afresh. The learned Single Judge has placed reliance on the judgment of this Court in Jasraj vs. State of Rajasthan 7 Ors., reported in AIR 1977 Rajasthan 150.

Having heard learned counsel for the appellants and perused the order of the learned Single Judge, we are of the view that all the four special appeals deserve to be dismissed. The scheme of the Act of 1894 clearly shows that the State Government has been vested with a power under Section 48 of the Act of 1894 to denotify the acquisition notification under Section 4 and 6 of the Act. Once the acquisition notification has been denotified the only remedy with the State to issue a fresh notice. The learned Single Judge has given such liberty to the appellants. Thus, the appellants cannot be permitted to say that the said notification was issued without opportunity of hearing

being given to the Krishi Upaj Mandi Samiti. As far as the State is concerned, it cannot challenge its own writ petition. Thus, the conclusion arrived at by the learned Single Judge does not warrant any interference.

All the four special appeals being devoid of merits stand dismissed.

(MANAK MOHTA),J. **(N.N.MATHUR),J**

Ashwini/-